IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2820 OF 2006
IN
WRIT PETITION NO. 9054 OF 2005

1. Poona Bottling Employees Union ..Applicant (Org.Repdt.No.1)

Vs.

1. Poona Bottling Company Ltd. and ors. ..Respondents

Mr. S.R. Nargolkar for applicant.
Mr. J.P. Cama, Senior Counsel with Ms. Sushma Joshi i/by M/s. Haresh Mehta & Co. for respondent no.1-original petitioner.

WITH
CIVIL APPLICATION NO. 2407 OF 2006
IN
WRIT PETITION NO. 9054 OF 2005

Poona Bottling Company Ltd. ..Applicant (Org.Petitioner)

Vs.

Poona Bottling Employees & Ors. ..Respondents

Mr. J.P. Cama, Senior Counsel with Ms.Sushma Joshi i/by M/s. Haresh Mehta & Co. for applicant.
Mr. S.R. Nargolkar for respondent no.1.

CORAM: B.H. MARLAPALLE,J.

Date of Reserve : November 23, 2006.

Date of Pronouncement : November 28, 2006

P.C.:

1. The Civil Application No.2820 of 2006 for modification of the order dated 18/8/2006 is taken out by the applicant-Union in Writ Petition No.9054 of 2005. In the said petition the award passed by the Industrial Tribunal at Pune on 30/6/2005 in Reference (IT) No.5 of 2001 has been challenged. In the said award the Tribunal has directed the payment of entire salary from 21/2/2000 till the decision of the Reference i.e. till the date the award was passed and the award is dated 30/6/2005 and hence the order dated 18/8/2006 is required to be corrected.

2. Mr. Cama, the learned Senior Counsel, on the other hand submitted that by the notice dated 31/7/2001, the factory operations were closed on 31/8/2001 and, therefore, the management is required to deposit the wages from 21/2/2000 till 31/7/2001 or 31/8/2001 and, therefore, no corrections are required to be made in the order dated 18/8/2006.

3. Whereas Civil Application No.2407 of 2006 has been filed by the Company for review of the order dated 18/8/2006. It has been contended that consequent to the order passed in Complaint (ULP) No.67 of 2000 on 20/3/2001, the Company was called upon to pay wages in terms of the interim order dated 22/3/2000. Accordingly, the Company has deposited 50% of the basic plus Dearness Allowance of the concerned employees. In addition, 47 of the 90 workmen have settled their dues in terms of the following receipt:-

> "I the undersigned have received the sum of Rs._____/- (Rupees_____) by cheque no. _____ dated _____ drawn on Bank of India from M/s Poona Bottling Company Ltd. towards full and final settlement of my all dues. With the receipt of the said amount, I have no claim left against M/s. Poona Bottling Company Ltd. of whatsoever nature monetary or otherwise, for the period of my employment."

4. There is no dispute that at the relevant time there were in all 90 workmen and Mr. Cama claims that the impugned award passed by the Industrial Tribunal did not cover more than 90 workmen. Two of the workmen died in the meanwhile and the remaining 41 workmen have received their dues, but under protest.

Mr.Nargolkar, the learned counsel appearing for the Union stated that the 47 workmen who have given a declaration that they have no further monetary claim against the Company are not represented by the applicant-Union.

5. On hearing the learned counsel for both the parties, para 2 of the order dated 18/8/2006 passed in Writ Petition No.9054 of 2005 is modified as under:-

> "Stay to the impugned award subject to the condition that the wages from 21/2/2000 to 30/6/2005 are deposited with the Registry of this court within a period of six weeks from today in respect of the 41 workmen who have received the legal dues under protest and by adjusting the amount of 50% wages and allowances already deposited by the Company earlier, pursuant to the orders issued by this court from time to time in connected writ petitions."

6. The order dated 18/8/2006 passed in Writ Petition No.9054 of 2005 be corrected accordingly and fresh writ be issued forthwith.

7. Civil Applications disposed off in terms of the above order.

(B.H. Marlapalle,J.)